

BOARDS AND COMMISSIONS
Board of Chiropractic Examiners
(Amendment)

201 KAR 21:054. Emergency orders.

RELATES TO: 312.019(3)

STATUTORY AUTHORITY: KRS 312.019(3), 312.150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 312.019(1) authorizes the Board of Chiropractic Examiners to establish administrative regulations relating to the practice of chiropractic. KRS 312.019(3) authorizes the board to suspend or limit any license issued by it. This administrative regulation establishes procedures for the emergency suspension or restriction of a license if there is ~~[a risk to the public]~~an immediate danger to the health, welfare, or safety of a patient or the general public.

Section 1. Emergency Order of Suspension or Limitation. (1) The board president or the board as a whole may take emergency action, which shall be in accordance with KRS 13B.125, by issuing an emergency order to suspend or limit a license to practice chiropractic. An emergency order shall:

(a) Be based upon a finding by the board president ~~[and vice president]~~ or the board as a whole that:

1. The emergency order is in the public interest; and

2. There is substantial evidence of immediate danger to the health, welfare, or safety of a patient or the general public;

(b) Specify the factual basis that caused the emergency condition to exist;

(c) Specify the statutory or regulatory violation that caused the emergency condition to exist; and

(d) Be served on a licensee in accordance with KRS 13B.050(2).

(2) Upon receipt of an emergency order, a licensee shall immediately comply with the emergency order of suspension or limitation.

(3) A licensee may appeal the emergency order. An appeal shall be:

(a) Made by a written request to the board;

(b) In accordance with KRS 13B.125; and

(c) Made within thirty (30) days after receipt of the order.

(4) A chiropractor's license shall be revoked if:

(a) The licensee does not request a hearing; or

(b) The condition that resulted in the emergency order is not corrected within thirty (30) calendar days of service of the emergency order.

(5) The emergency order shall be affirmed if there is substantial evidence of an immediate threat to public health, safety, or welfare.

DR. JEFFREY SMITH, Chair

APPROVED BY AGENCY: June 10, 2021

FILED WITH LRC: June 10, 2021 at 12:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 12:00 p.m. on August 31, 2021, at 500 Mero Street, 127CW, Frankfort, Kentucky 40601. All attendees shall comply with all Executive Orders relating to the State of Emergency as may be in effect on the date of the public hearing, which may be found at: <https://governor.ky.gov/covid-19>. Members of the public may utilize the following link to at-

tend the meeting by video conference: Join from PC, Mac, Linux, iOS or Android: <https://us02web.zoom.us/j/81055276158?pwd=SDB0ZHFETkhVS1kyc3M5Y0d3V0xnUT09>, Password: 518102, Or Telephone: Dial: USA 713 353 0212, USA 8888227517 (US Toll Free), Conference code: 257130. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on August 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: August L. Pozgay, Attorney for the Board of Chiropractic Examiners, 500 Mero Street, 218NC, Frankfort, Kentucky 40601, phone (502) 782-0714, fax (502) 564-4818, email august.pozgay@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: August L. Pozgay

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation establishes procedures for an emergency suspension if a licensee is found to be a danger to the public.

(b) The necessity of this administrative regulation: This administrative regulation is required to clarify who can issue an emergency suspension.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. KRS 312.019(3) allows the board to suspend a license. This administrative regulation clarifies who can issue an emergency suspension.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 312 by allowing the board to issue an emergency suspension of a license if they are a danger to the public.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The Amendment clarifies who can issue an emergency summary suspension.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to clarify who can issue an emergency summary suspension.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 312.019(9) authorizes the Kentucky Board of Chiropractic Examiners to promulgate administrative regulations consistent with KRS Chapter 312, regulating the practice of chiropractic. This administrative regulation clarifies who can issue an emergency summary suspension.

(d) How the amendment will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 312 by carrying out the legislative

mandate for the board to establish requirements for the practice of chiropractic and to protect the consuming public.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect 1,120 licensed chiropractors practicing in the Commonwealth of Kentucky, as well as an unknown number of their patients.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: There is no action required for any regulated entity that is necessary to comply with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation should add no additional cost to the licensed chiropractor.

(c) As a result of compliance, what benefits will accrue to the entities: This regulation will benefit the regulated community by clarifying the procedures for an emergency summary suspension if a licensee is found to be a danger to the public.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation does not create a cost for the administrative body.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Kentucky Board of Chiropractic Examiners is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No increases in fees or funding is necessary to implement this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensees are treated similarly under this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Chiropractic Examiners.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS Chapter 312.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to the agency.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to the agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None